

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

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CHAPTER 118

HOUSE BILL 2067

AN ACT

AMENDING SECTIONS 20-224, 38-841, 38-842, 38-843, 38-844, 38-846, 38-847, 38-848, 38-848.03, 38-849 AND 38-853.01, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224, Arizona Revised Statutes, is amended to
3 read:

4 20-224. Premium tax

5 A. On or before March 1 of each year each authorized domestic insurer,
6 each other insurer and each formerly authorized insurer referred to in
7 section 20-206, subsection B shall file with the director a report in a form
8 prescribed by the director showing total direct premium income including
9 policy membership and other fees and all other considerations for insurance
10 from all classes of business whether designated as a premium or otherwise
11 received by it during the preceding calendar year on account of policies and
12 contracts covering property, subjects or risks located, resident or to be
13 performed in this state, after deducting from such total direct premium
14 income applicable cancellations, returned premiums, the amount of reduction
15 in or refund of premiums allowed to industrial life policyholders for payment
16 of premiums direct to an office of the insurer and all policy dividends,
17 refunds, savings coupons and other similar returns paid or credited to
18 policyholders within this state and not reapplied as premiums for new,
19 additional or extended insurance. No deduction shall be made of the cash
20 surrender values of policies or contracts. Considerations received on
21 annuity contracts, as well as the unabsorbed portion of any premium deposit,
22 shall not be included in total direct premium income, and neither shall be
23 subject to tax. The report shall separately indicate the total direct fire
24 insurance premium income received from property located in the incorporated
25 cities and towns certified by the state fire ~~marshal~~ MARSHAL pursuant to
26 section 9-951, subsection B, as procuring the services of a private fire
27 company.

28 B. Coincident with the filing of such tax report each insurer shall
29 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
30 tax of 2.0 per cent of such net premiums, except that the tax on fire
31 insurance premiums on property located in an incorporated city or town
32 certified by the state fire marshal pursuant to section 9-951, subsection B,
33 as procuring the services of a private fire company is .66 per cent, the tax
34 on all other fire insurance premiums is 2.2 per cent and the tax on health
35 care service and disability insurance premiums is as prescribed under
36 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
37 subsection E of this section shall be deducted from the tax payable pursuant
38 to this subsection. Each insurer shall reflect the cost savings attributable
39 to the lower tax in fire insurance premiums charged on property located in an
40 incorporated city or town certified by the state fire marshal pursuant to
41 section 9-951, subsection B, as procuring the services of a private fire
42 company. No insurer shall be liable to the state or to any other person, or
43 shall be subject to regulatory action, relating to the calculation or
44 submittal of fire insurance premium taxes based in good faith upon the state
45 fire marshal's certification.

1 C. Eighty-five per cent of the tax paid under this section by an
2 insurer on account of premiums received for fire insurance shall be
3 separately specified in the report and shall be apportioned in the manner
4 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
5 allocated to a fund of a municipality OR FIRE DISTRICT that has no volunteer
6 fire fighters or pension obligations to volunteer fire fighters shall be
7 appropriated to the account of the municipality OR FIRE DISTRICT in the
8 public safety personnel retirement system and all of the tax so allocated to
9 a fund of a municipality OR FIRE DISTRICT that has both full-time paid fire
10 fighters and volunteer fire fighters or pension obligations to full-time paid
11 fire fighters or volunteer fire fighters shall be appropriated to the account
12 of the municipality OR FIRE DISTRICT in the public safety personnel
13 retirement system where it shall be reallocated by actuarial procedures
14 proportionately to the municipality OR FIRE DISTRICT for the account of the
15 full-time paid fire fighters and to the municipality OR FIRE DISTRICT for the
16 account of the volunteer fire fighters. A MUNICIPALITY OR FIRE DISTRICT
17 SHALL PROVIDE TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ALL
18 INFORMATION THAT THE SYSTEM DEEMS NECESSARY TO PERFORM THE REALLOCATION
19 PRESCRIBED BY THIS SECTION. A full accounting of such reallocation shall be
20 forwarded to the municipality OR FIRE DISTRICT and ~~both~~ THEIR local boards.

21 D. This section shall not apply to title insurance, and such insurers
22 shall be taxed as provided in section 20-1566.

23 E. Any insurer that paid or is required to pay a tax of two thousand
24 dollars or more on net premiums received during the preceding calendar year,
25 pursuant to subsection B of this section and sections 20-224.01, 20-837,
26 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of
27 each month from March through August a report for that month, on a form
28 prescribed by the director, accompanied by a payment in an amount equal to
29 fifteen per cent of the amount paid or required to be paid during the
30 preceding calendar year pursuant to subsection B of this section and sections
31 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
32 payable on or before the fifteenth day of each month and shall be made to the
33 director for deposit, pursuant to sections 35-146 and 35-147.

34 F. Except for the tax paid on fire insurance premiums pursuant to
35 subsections B and C of this section, an insurer may claim a premium tax
36 credit if the insurer qualifies for a credit pursuant to section 20-224.03,
37 20-224.04, ~~or~~ 20-224.06 or 20-224.07.

38 G. ~~Upon~~ ON receipt of a properly documented claim, a refund shall be
39 provided to an insurer from available funds for the excess amount of any fire
40 insurance premium improperly paid by the insurer. The insurer shall reflect
41 the refund in the fire insurance premiums charged on the property ~~which~~ THAT
42 was charged the excessive amount.

1 Sec. 2. Section 38-841, Arizona Revised Statutes, is amended to read:

2 38-841. Purpose; vested benefits

3 A. ~~Prior to~~ BEFORE the establishment of the public safety personnel
4 retirement system, municipal firemen and policemen, employees of the Arizona
5 highway patrol, and other public safety personnel in the state of Arizona
6 were covered under various local, municipal, and state retirement
7 programs. These heterogeneous programs provided for wide and significant
8 differentials in employee contribution rates, benefit eligibility provisions,
9 types of benefit protection, and benefit formulas.

10 B. In order to provide a uniform, consistent and equitable statewide
11 program for public safety personnel who are regularly assigned hazardous duty
12 in the employ of the state of Arizona or a political subdivision thereof,
13 this retirement system was created effective as of July 1, 1968, as an
14 amendment to and continuation of three prior systems. Groups of employees
15 covered under the three prior systems as of June 30, 1968, and the assets and
16 liabilities accumulated thereunder for such employees, are transferred with
17 prior service credits to this retirement system as of the effective date, and
18 both they and their employers shall be required to make stipulated
19 contributions to support the system's benefit structure on a sound actuarial
20 basis. Future employees in such groups shall commence participation in, and
21 contributions to, the system immediately ~~upon~~ ON commencement of covered
22 employment.

23 C. The provisions of this system shall not be construed to authorize
24 the granting of any retirement benefits to persons who are retired as of the
25 effective date of this article, except as described in sections 38-849 and
26 38-853.

27 D. Additional eligible groups of public safety personnel will
28 participate in the system pursuant to election by their employer for such
29 coverage under an appropriate joinder agreement.

30 E. THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM IS A JURAL ENTITY
31 THAT MAY SUE AND BE SUED.

32 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:

33 38-842. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Accidental disability" means a physical or mental condition that
36 the local board finds totally and permanently prevents an employee from
37 performing a reasonable range of duties within the employee's job
38 classification and that was incurred in the performance of the employee's
39 duty.

40 2. "Accumulated contributions" means, for each member, the sum of the
41 amount of the member's aggregate contributions made to the fund and the
42 amount, if any, attributable to the employee's contributions before the
43 member's effective date under another public retirement system, other than
44 the federal social security act, and transferred to the fund minus the
45 benefits paid to or on behalf of the member.

1 3. "Actuarial equivalent" means equality in present value of the
2 aggregate amounts expected to be received under two different forms of
3 payment, based on mortality and interest assumptions adopted by the fund
4 manager.

5 4. "Alternate payee" means the spouse or former spouse of a
6 participant as designated in a domestic relations order.

7 5. "Alternate payee's portion" means benefits that are payable to an
8 alternate payee pursuant to a plan approved domestic relations order.

9 6. "Annuitant" means a person who is receiving a benefit pursuant to
10 section 38-846.01.

11 7. "Average monthly benefit compensation" means the result obtained by
12 dividing the total compensation paid to an employee during a considered
13 period by the number of months, including fractional months, in which such
14 compensation was received. The considered period shall be the three
15 consecutive years within the last twenty completed years of credited service
16 that yield the highest average. In the computation under this paragraph, a
17 period of nonpaid or partially paid industrial leave shall be considered
18 based on the compensation the employee would have received in the employee's
19 job classification if the employee was not on industrial leave.

20 8. "Catastrophic disability" means a physical and not a psychological
21 condition that the local board determines prevents the employee from totally
22 and permanently engaging in any gainful employment and that results from a
23 physical injury incurred in the performance of the employee's duty.

24 9. "Certified peace officer" means a peace officer certified by the
25 Arizona peace officers standards and training board.

26 10. "Claimant" means any member or beneficiary who files an application
27 for benefits pursuant to this article.

28 11. "Compensation" means, for the purpose of computing retirement
29 benefits, base salary, overtime pay, shift differential pay, military
30 differential wage pay and holiday pay paid to an employee by the employer on
31 a regular monthly, semimonthly or biweekly payroll basis and longevity pay
32 paid to an employee at least every six months for which contributions are
33 made to the system pursuant to section 38-843, subsection D. Compensation
34 does not include, for the purpose of computing retirement benefits, payment
35 for unused sick leave, payment in lieu of vacation, payment for compensatory
36 time or payment for any fringe benefits. In addition, compensation does not
37 include, for the purpose of computing retirement benefits, payments made
38 directly or indirectly by the employer to the employee for work performed for
39 a third party on a contracted basis or any other type of agreement under
40 which the third party pays or reimburses the employer for the work performed
41 by the employee for that third party, except for third party contracts
42 between public agencies for law enforcement, CRIMINAL, TRAFFIC AND CRIME
43 SUPPRESSION ACTIVITIES training, wildfire and, EMERGENCY MEDICAL OR emergency
44 management activities OR WHERE THE EMPLOYER SUPERVISES THE EMPLOYEE'S
45 PERFORMANCE OF LAW ENFORCEMENT, CRIMINAL, TRAFFIC AND CRIME SUPPRESSION

1 ACTIVITIES, TRAINING, FIRE, WILDFIRE, EMERGENCY MEDICAL OR EMERGENCY
2 MANAGEMENT SERVICES. For the purposes of this paragraph, "base salary" means
3 the amount of compensation each employee is regularly paid for personal
4 services rendered to an employer before the addition of any extra monies,
5 including overtime pay, shift differential pay, holiday pay, longevity pay,
6 fringe benefit pay and similar extra payments.

7 12. "Credited service" means the member's total period of service
8 before the member's effective date of participation, plus those compensated
9 periods of the member's service thereafter for which the member made
10 contributions to the fund.

11 13. "Cure period" means the ninety-day period in which a participant or
12 alternate payee may submit an amended domestic relations order and request a
13 determination, calculated from the time the system issues a determination
14 finding that a previously submitted domestic relations order did not qualify
15 as a plan approved domestic relations order.

16 14. "Depository" means a bank in which all monies of the system are
17 deposited and held and from which all expenditures for benefits, expenses and
18 investments are disbursed.

19 15. "Determination" means a written document that indicates to a
20 participant and alternate payee whether a domestic relations order qualifies
21 as a plan approved domestic relations order.

22 16. "Determination period" means the ninety-day period in which the
23 system must review a domestic relations order that is submitted by a
24 participant or alternate payee to determine whether the domestic relations
25 order qualifies as a plan approved domestic relations order, calculated from
26 the time the system mails a notice of receipt to the participant and
27 alternate payee.

28 17. "Direct rollover" means a payment by the system to an eligible
29 retirement plan that is specified by the distributee.

30 18. "Distributee" means a member, a member's surviving spouse or a
31 member's spouse or former spouse who is the alternate payee under a plan
32 approved domestic relations order.

33 19. "Domestic relations order" means an order of a court of this state
34 that is made pursuant to the domestic relations laws of this state and that
35 creates or recognizes the existence of an alternate payee's right to, or
36 assigns to an alternate payee the right to, receive a portion of the benefits
37 payable to a participant.

38 20. "Effective date of participation" means July 1, 1968, except with
39 respect to employers and their covered employees whose contributions to the
40 fund commence thereafter, the effective date of their participation in the
41 system is as specified in the applicable joinder agreement.

42 21. "Effective date of vesting" means the date a member's rights to
43 benefits vest pursuant to section 38-844.01.

44 22. "Eligible child" means ~~the~~ AN unmarried child of a deceased member
45 OR RETIRED MEMBER who MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

- 1 (a) Is under ~~the age of~~ eighteen YEARS OF AGE. ~~or~~
2 (b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF
3 AGE ONLY DURING ANY PERIOD THAT THE CHILD IS a full-time student. ~~who is~~
4 ~~under the age of twenty three or~~
5 (c) IS under a disability that began before the child attained ~~the age~~
6 ~~of~~ twenty-three YEARS OF AGE and ~~who~~ remains a dependent of the surviving
7 spouse or guardian.
- 8 23. "Eligible groups" means only the following who are regularly
9 assigned to hazardous duty:
- 10 (a) Municipal police officers who are certified peace officers.
11 (b) Municipal fire fighters.
12 (c) Paid full-time fire fighters employed directly by a fire district
13 organized pursuant to section 48-803 or 48-804 with three or more full-time
14 fire fighters, but not including fire fighters employed by a fire district
15 pursuant to a contract with a corporation.
16 (d) State highway patrol officers who are certified peace officers.
17 (e) State fire fighters.
18 (f) County sheriffs and deputies who are certified peace officers.
19 (g) Game and fish wardens who are certified peace officers.
20 (h) Police officers who are certified peace officers and fire fighters
21 of a nonprofit corporation operating a public airport pursuant to sections
22 28-8423 and 28-8424. A police officer shall be designated pursuant to
23 section 28-8426 to aid and supplement state and local law enforcement
24 agencies and a fire fighter's sole duty shall be to perform fire fighting
25 services, including services required by federal regulations.
26 (i) Police officers who are certified peace officers and who are
27 appointed by the Arizona board of regents.
28 (j) Police officers who are certified peace officers and who are
29 appointed by a community college district governing board.
30 (k) State attorney general investigators who are certified peace
31 officers.
32 (l) County attorney investigators who are certified peace officers.
33 (m) Police officers who are certified peace officers and who are
34 employed by an Indian reservation police agency.
35 (n) Fire fighters who are employed by an Indian reservation fire
36 fighting agency.
37 (o) Police officers who are certified peace officers and who are
38 appointed by the department of administration.
39 (p) Department of liquor licenses and control investigators who are
40 certified peace officers.
41 (q) Arizona department of agriculture officers who are certified peace
42 officers.
43 (r) Arizona state parks board rangers and managers who are certified
44 peace officers.
45 (s) County park rangers who are certified peace officers.

1 24. "Eligible retirement plan" means any of the following that accepts
2 a distributee's eligible rollover distribution:

3 (a) An individual retirement account described in section 408(a) of
4 the internal revenue code.

5 (b) An individual retirement annuity described in section 408(b) of
6 the internal revenue code.

7 (c) An annuity plan described in section 403(a) of the internal
8 revenue code.

9 (d) A qualified trust described in section 401(a) of the internal
10 revenue code.

11 (e) An annuity contract described in section 403(b) of the internal
12 revenue code.

13 (f) An eligible deferred compensation plan described in section 457(b)
14 of the internal revenue code that is maintained by a state, a political
15 subdivision of a state or any agency or instrumentality of a state or a
16 political subdivision of a state and that agrees to separately account for
17 amounts transferred into the eligible deferred compensation plan from this
18 plan.

19 25. "Eligible rollover distribution" means a payment to a distributee,
20 but does not include any of the following:

21 (a) Any distribution that is one of a series of substantially equal
22 periodic payments made not less frequently than annually for the life or life
23 expectancy of the member or the joint lives or joint life expectancies of the
24 member and the member's beneficiary or for a specified period of ten years or
25 more.

26 (b) Any distribution to the extent the distribution is required under
27 section 401(a)(9) of the internal revenue code.

28 (c) The portion of any distribution that is not includable in gross
29 income.

30 26. "Employee" means any person who is employed by a participating
31 employer and who is a member of an eligible group but does not include any
32 persons compensated on a contractual or fee basis. If an eligible group
33 requires certified peace officer status and at the option of the local board,
34 employee may include a person who is training to become a certified peace
35 officer.

36 27. "Employers" means:

37 (a) Cities contributing to the fire fighters' relief and pension fund
38 as provided in sections 9-951 through 9-971 or statutes amended thereby and
39 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
40 fire fighters.

41 (b) Cities contributing under the state police pension laws as
42 provided in sections 9-911 through 9-934 or statutes amended thereby and
43 antecedent thereto, as of June 30, 1968 on behalf of their municipal
44 policemen.

1 (c) The state highway patrol covered under the state highway patrol
2 retirement system.

3 (d) The state, or any political subdivision of this state, including
4 towns, cities, fire districts, counties and nonprofit corporations operating
5 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
6 participate in the system on behalf of an eligible group of public safety
7 personnel pursuant to a joinder agreement entered into after July 1, 1968.

8 (e) Indian tribes that have elected to participate in the system on
9 behalf of an eligible group of public safety personnel pursuant to a joinder
10 agreement entered into after July 1, 1968.

11 28. "Fund" means the public safety personnel retirement fund, which is
12 the fund established to receive and invest contributions accumulated under
13 the system and from which benefits are paid.

14 29. "Fund manager" means the fund manager of the system, who are the
15 persons appointed to invest and operate the fund.

16 30. "Local board" means the retirement board of the employer, who are
17 the persons appointed to administer the system as it applies to their members
18 in the system.

19 31. "Member" means any FULL-TIME employee who meets all of the
20 following qualifications:

21 (a) Who is either a ~~full-time~~ paid municipal police officer, a
22 ~~full-time~~ paid fire fighter, a law enforcement officer who is employed by
23 this state including the director thereof, a state fire fighter who is
24 primarily assigned to fire fighting duties, a fire fighter or police officer
25 of a nonprofit corporation operating a public airport pursuant to sections
26 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
27 merit system council, a state attorney general investigator who is a
28 certified peace officer, a county attorney investigator who is a certified
29 peace officer, a police officer who is appointed by the department of
30 administration and who is a certified peace officer, a department of liquor
31 licenses and control investigator who is a certified peace officer, an
32 Arizona department of agriculture officer who is a certified peace officer,
33 an Arizona state parks board ranger or manager who is a certified peace
34 officer, a county park ranger who is a certified peace officer, a person who
35 is a certified peace officer and who is employed by an Indian reservation
36 police agency, a fire fighter who is employed by an Indian reservation fire
37 fighting agency or an employee included in a group designated as eligible
38 employees under a joinder agreement entered into by their employer after July
39 1, 1968 and who is or was regularly assigned to hazardous duty.

40 (b) Who, on or after the employee's effective date of participation,
41 is receiving compensation for personal services rendered to an employer or
42 would be receiving compensation except for an authorized leave of absence.

1 (c) Whose customary employment is at least forty hours per week and
2 ~~for more than six months in a calendar year~~ OR, FOR THOSE EMPLOYEES WHO
3 CUSTOMARILY WORK FLUCTUATING WORK WEEKS, WHOSE CUSTOMARY EMPLOYMENT AVERAGES
4 AT LEAST FORTY HOURS PER WEEK.

5 (d) WHO IS ENGAGED TO WORK FOR MORE THAN SIX MONTHS IN A CALENDAR
6 YEAR.

7 (e) WHO, IF ECONOMIC CONDITIONS EXIST, IS REQUIRED TO TAKE FURLOUGH
8 DAYS OR REDUCE THE HOURS OF THEIR NORMAL WORK WEEK BELOW FORTY HOURS BUT NOT
9 LESS THAN THIRTY HOURS PER PAY CYCLE, AND MAINTAIN THEIR ACTIVE MEMBER STATUS
10 WITHIN THE SYSTEM AS LONG AS THE HOUR CHANGE DOES NOT EXTEND BEYOND TWELVE
11 CONSECUTIVE MONTHS.

12 ~~(d)~~ (f) Who has not attained age sixty-five before the employee's
13 effective date of participation or who was over age sixty-five with
14 twenty-five years or more of service prior to the employee's effective date
15 of participation.

16 32. "Normal retirement date" means the first day of the calendar month
17 immediately following an employee's completion of twenty years of service or
18 the employee's sixty-second birthday and the employee's completion of fifteen
19 years of service.

20 33. "Notice of receipt" means a written document that is issued by the
21 system to a participant and alternate payee and that states that the system
22 has received a domestic relations order and a request for a determination
23 that the domestic relations order is a plan approved domestic relations
24 order.

25 34. "Ordinary disability" means a physical condition that the local
26 board determines will prevent an employee totally and permanently from
27 performing a reasonable range of duties within the employee's department or a
28 mental condition that the local board determines will prevent an employee
29 totally and permanently from engaging in any substantial gainful activity.

30 35. "Participant" means a member who is subject to a domestic relations
31 order.

32 36. "Participant's portion" means benefits that are payable to a
33 participant pursuant to a plan approved domestic relations order.

34 37. "Pension" means a series of monthly amounts that are payable to a
35 person who is entitled to receive benefits under the plan but does not
36 include an annuity that is payable pursuant to section 38-846.01.

37 38. "Personal representative" means the personal representative of a
38 deceased alternate payee.

39 39. "Plan approved domestic relations order" means a domestic relations
40 order that the system approves as meeting all the requirements for a plan
41 approved domestic relations order as otherwise prescribed in this article.

42 40. "Regularly assigned to hazardous duty" means regularly assigned to
43 duties of the type normally expected of municipal police officers, municipal
44 or state fire fighters, eligible fire district fire fighters, state highway
45 patrol officers, county sheriffs and deputies, fish and game wardens, fire

1 fighters and police officers of a nonprofit corporation operating a public
2 airport pursuant to sections 28-8423 and 28-8424, police officers who are
3 appointed by the Arizona board of regents or a community college district
4 governing board, state attorney general investigators who are certified peace
5 officers, county attorney investigators who are certified peace officers,
6 police officers who are appointed by the department of administration and who
7 are certified peace officers, department of liquor licenses and control
8 investigators who are certified peace officers, Arizona department of
9 agriculture officers who are certified peace officers, Arizona state parks
10 board rangers and managers who are certified peace officers, county park
11 rangers who are certified peace officers, police officers who are certified
12 peace officers and who are employed by an Indian reservation police agency or
13 fire fighters who are employed by an Indian reservation fire fighting
14 agency. Those individuals who are assigned solely to support duties such as
15 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
16 personnel, mechanics and dispatchers are not assigned to hazardous duty
17 regardless of their position classification title. Since the normal duties of
18 those jobs described in this paragraph are constantly changing, questions as
19 to whether a person is or was previously regularly assigned to hazardous duty
20 shall be resolved by the local board on a case-by-case basis. Resolutions by
21 local boards are subject to rehearing and appeal.

22 41. "Retirement" OR "RETIRED" means termination of employment after a
23 member has fulfilled all requirements for a pension. Retirement shall be
24 considered as commencing on the first day of the month immediately following
25 a member's last day of employment or authorized leave of absence, if later.

26 42. "Segregated funds" means the amount of benefits that would
27 currently be payable to an alternate payee pursuant to a domestic relations
28 order under review by the system, or a domestic relations order submitted to
29 the system that failed to qualify as a plan approved domestic relations
30 order, if the domestic relations order were determined to be a plan approved
31 domestic relations order.

32 43. "Service" means the last period of continuous employment of an
33 employee by the employers before the employee's retirement, except that if
34 such period includes employment during which the employee would not have
35 qualified as a member had the system then been effective, such as employment
36 as a volunteer fire fighter, then only twenty-five per cent of such
37 noncovered employment shall be considered as service. Any absence that is
38 authorized by an employer shall not be considered as interrupting continuity
39 of employment if the employee returns within the period of authorized
40 absence. Transfers between employers also shall not be considered as
41 interrupting continuity of employment. Any period during which a member is
42 receiving sick leave payments or a temporary disability pension shall be
43 considered as service. Notwithstanding any other provision of this
44 paragraph, any period during which a person was employed as a full-time paid
45 fire fighter for a corporation that contracted with an employer to provide

1 firefighting services on behalf of the employer shall be considered as
2 service if the employer has elected at its option to treat part or all of the
3 period the firefighter worked for the company as service in its applicable
4 joinder agreement. Any reference in this system to the number of years of
5 service of an employee shall be deemed to include fractional portions of a
6 year.

7 44. "State" means the state of Arizona, including any department,
8 office, board, commission, agency or other instrumentality of the state.

9 45. "System" means the public safety personnel retirement system
10 established by this article.

11 46. "Temporary disability" means a physical or mental condition that
12 the local board finds totally and temporarily prevents an employee from
13 performing a reasonable range of duties within the employee's department and
14 that was incurred in the performance of the employee's duty.

15 Sec. 4. Section 38-843, Arizona Revised Statutes, is amended to read:

16 38-843. Contributions

17 A. Each employer who participates in the system on behalf of a group
18 of employees who were covered under a prior public retirement system, other
19 than the federal social security act, shall transfer all securities and
20 monies attributable to the taxes and contributions of the state other than
21 the state contribution to social security, the employer and the employees for
22 the covered group of employees under the other system, such transfer to be
23 made to the fund subject to all existing liabilities and on or within sixty
24 days following the employer's effective date. All monies and securities
25 transferred to the fund shall be credited to the employer's account in the
26 fund. A record of the market value and the cost value of such transferred
27 contributions shall be maintained for actuarial and investment purposes.

28 B. As determined by actuarial valuations reported to the employer and
29 the local board by the fund manager, each employer shall make level per cent
30 of compensation contributions sufficient under such actuarial valuations to
31 meet both the normal cost plus the actuarially determined amount required to
32 amortize the unfunded accrued liability over, beginning July 1, 2005, a
33 rolling period of at least twenty and not more than thirty years that is
34 established by the fund manager taking into account the recommendation of the
35 system's actuary, except that, beginning with fiscal year 2006-2007, except
36 as otherwise provided, the employer contribution rate shall not be less than
37 eight per cent of compensation. For any employer whose actual contribution
38 rate is less than eight per cent of compensation for fiscal year 2006-2007,
39 that employer's contribution rate is not subject to the eight per cent
40 minimum but, for fiscal year 2006-2007 and each year thereafter, shall be at
41 least five per cent and not more than the employer's actual contribution
42 rate. An employer shall have the option of paying a higher level per cent of
43 compensation thereby reducing its unfunded past service liability. An
44 employer shall also have the option of increasing its contributions in order
45 to reduce the contributions required from its members under subsection C,

1 except that if an employer elects this option the employer shall pay the same
2 higher level percentage contribution for all members of the eligible
3 group. During a period when an employee is on industrial leave and the
4 employee elects to continue contributions during the period of industrial
5 leave, the employer shall make the contributions based on the compensation
6 the employee would have received in the employee's job classification if the
7 employee was in normal employment status. All contributions made by the
8 employers and all state taxes allocated to the fund shall be irrevocable and
9 shall be used to pay benefits under the system or to pay expenses of the
10 system and fund. The minimum employer contribution that is paid and that is
11 in excess of the normal cost plus the actuarially determined amount required
12 to amortize the unfunded accrued liability as calculated pursuant to this
13 subsection shall be used to reduce future employer contribution increases and
14 shall not be used to pay for an increase in benefits that are otherwise
15 payable to members. The fund manager shall separately account for these
16 monies in the fund. Forfeitures arising because of severance of employment
17 before a member becomes eligible for a pension or any other reason shall be
18 applied to reduce the cost of the employer, not to increase the benefits
19 otherwise payable to members. After the close of any fiscal year, if the
20 system's actuary determines that the actuarial valuation of an employer's
21 account contains excess valuation assets other than excess valuation assets
22 that were in the employer's account as of fiscal year 2004-2005 and is more
23 than one hundred per cent funded, the fund manager shall account for fifty
24 per cent of the excess valuation assets in a stabilization reserve
25 account. After the close of any fiscal year, if the system's actuary
26 determines that the actuarial valuation of an employer's account has a
27 valuation asset deficiency and an unfunded actuarial accrued liability, the
28 fund manager shall use any valuation assets in the stabilization reserve
29 account for that employer, to the extent available, to limit the decline in
30 that employer's funding ratio to not more than two per cent.

31 C. Each member, throughout the member's period of service from the
32 member's effective date of participation, shall contribute to the fund an
33 amount equal to 7.65 per cent of the member's compensation, except as
34 provided in subsection B. During a period when an employee is on industrial
35 leave and the employee elects to continue contributions during the period of
36 industrial leave, the employee shall make the employee's contribution based
37 on the compensation the employee would have received in the employee's job
38 classification if the employee was in normal employment status.
39 Contributions of members shall be required as a condition of employment and
40 membership in the system and shall be made by payroll deductions. Every
41 employee shall be deemed to consent to such deductions. Payment of an
42 employee's compensation, less such payroll deductions, shall constitute a
43 full and complete discharge and satisfaction of all claims and demands by the
44 employee relating to remuneration for the employee's services rendered during

1 the period covered by the payment, except with respect to the benefits
2 provided under the system.

3 D. Each employer shall transfer to the fund manager the employer and
4 employee contributions provided for in subsections B and C within ten working
5 days after each payroll date. Contributions transferred after that date
6 shall include a penalty of ten per cent per annum, compounded annually, for
7 each day the contributions are late, such penalty to be paid by the
8 employer. Delinquent payments due under this subsection, together with
9 interest charges as provided in this subsection, may be recovered by action
10 in a court of competent jurisdiction against an employer liable for the
11 payments or, at the request of the fund manager, may be deducted from any
12 other monies, including excise revenue taxes payable, to such employer by any
13 department or agency of this state.

14 E. IN NO CASE SHALL MORE THAN TWELVE MONTHS OF CREDITED SERVICE BE
15 CREDITED ON ACCOUNT OF ALL SERVICE RENDERED BY A MEMBER IN ANY ONE YEAR.

16 Sec. 5. Section 38-844, Arizona Revised Statutes, is amended to read:
17 38-844. Requirements for retirement benefits and disability
18 pensions

19 A. A member shall be eligible for a normal pension on retirement on or
20 after the member's normal retirement date. Payment of a normal pension shall
21 commence as of the first day of the month following the date of retirement,
22 and the last payment shall be made as of the last day of the month in which
23 the death of the retired member occurs.

24 B. A member is eligible for an accidental disability pension if the
25 member's employment is terminated by reason of accidental disability. A
26 member is eligible for an ordinary disability pension if the member's
27 employment is terminated before the member's normal retirement date by reason
28 of ordinary disability. A member shall file an application for a disability
29 pension after the disabling incident or within one year after the date the
30 member ceases to be an employee. Timely application for an accidental,
31 catastrophic or ordinary disability pension is a prerequisite to receipt of
32 the pension. Payment of an accidental, catastrophic or ordinary disability
33 pension shall commence as of the first day of the month following the date of
34 retirement or the expiration of a period during which the member is receiving
35 sick leave payments or a temporary disability pension, whichever is later.
36 The last payment shall be made as of the last day of the month in which the
37 death of the retired member occurs, or if disability ceases before the
38 member's normal retirement date, the first day of the month in which
39 disability ceases.

40 C. A member is eligible for a catastrophic disability pension if the
41 member's employment is terminated by reason of catastrophic disability. If
42 more than the allowable catastrophic disability pensions are approved by the
43 local boards in a calendar year, from and after December 31 of the following
44 calendar year a member of the system is not eligible to apply for a
45 catastrophic disability pension. On or before January 31, the fund manager

1 shall report to the president of the senate and the speaker of the house of
2 representatives the number of catastrophic disability pensions that were
3 approved by the local boards in the preceding calendar year. For the
4 purposes of this subsection, "allowable catastrophic disability pensions"
5 means for calendar year 2004, ten, and for subsequent calendar years the
6 number of allowable catastrophic disability pensions allowed in the prior
7 calendar year minus the number of catastrophic disability pensions approved
8 by the local boards in the prior calendar year plus four.

9 D. Notwithstanding any other provision of this section, no member
10 shall qualify for an accidental, catastrophic or ordinary disability pension
11 if the local board determines that the member's disability results from the
12 following:

13 1. An injury suffered while engaged in a felonious criminal act or
14 enterprise.

15 2. Service in the armed forces of the United States that entitles the
16 member to a veteran's disability pension.

17 3. A physical or mental condition or injury that existed or occurred
18 before the member's date of membership in the system.

19 E. Accidental or ordinary disability shall be considered to have
20 ceased and an accidental or ordinary disability pension terminates if the
21 member:

22 1. Has sufficiently recovered, in the opinion of the local board,
23 based on a medical examination by a physician or clinic appointed by the
24 local board, to be able to engage in a reasonable range of duties within the
25 member's department and the member refuses an offer of employment by an
26 employer in the system.

27 2. Refuses to undergo any medical examination requested by the board,
28 provided that a medical examination shall not be required more frequently
29 than once in any calendar year.

30 F. Sixty months after the award of a catastrophic disability pension,
31 the local board shall reevaluate the member. If the member still qualifies
32 for the catastrophic disability pension, the member is entitled to continue
33 to receive the pension at the reduced amount prescribed in section 38-845,
34 subsection E. A catastrophic disability shall be considered to have ceased
35 and a catastrophic disability pension terminates if the local board
36 determines that the member has sufficiently recovered and is able to engage
37 in gainful employment based on a medical examination by a physician or a
38 clinic appointed by the local board. After the sixty month review, the
39 catastrophic disability shall be considered to have ceased and a catastrophic
40 disability pension terminates if the local board determines that the member
41 has sufficiently recovered and is able to engage in gainful employment based
42 on a medical examination by a physician or a clinic appointed by the local
43 board, except that the medical examination shall not be required more
44 frequently than once in a calendar year. The medical review after the sixty
45 month period does not apply after the date the catastrophic disability

1 pensioner would have attained twenty-five years of service assuming the
2 pensioner remained a member of the system. The local board shall also
3 terminate a catastrophic disability pension if the member refuses to undergo
4 any medical examination requested by the board. A member whose catastrophic
5 disability pension is terminated may apply for and if eligible is entitled to
6 receive an accidental disability pension as provided in this section.

7 G. Subsection E of this section does not apply after a disability
8 pensioner's normal retirement date. The amount of a disability pension shall
9 not be recomputed at a disability pensioner's normal retirement date.

10 ~~H. An ordinary disability pension shall be reduced in the period~~
11 ~~before the member's normal retirement date if the member engages in any~~
12 ~~employment and if the member's income from this employment is greater than~~
13 ~~the member's pension unreduced by this subsection. The amount of the~~
14 ~~reduction shall be equal to the difference between the member's income from~~
15 ~~employment and the member's unreduced pension. The local board shall have~~
16 ~~the right to suspend payments of an ordinary disability pension if the~~
17 ~~disabled member fails to report earned income. Such suspension shall be for~~
18 ~~the period there is no satisfactory report with restoration of benefits on~~
19 ~~acceptance of such report or until the member's normal retirement date,~~
20 ~~whichever occurs earlier. If, in the opinion of the local board, the~~
21 ~~reduction provided in this subsection is insufficient to recover monies~~
22 ~~previously paid to a member, each local board, in its sole discretion, may~~
23 ~~bring an action to recover any outstanding balance due, notwithstanding any~~
24 ~~other rights the local board possesses.~~

25 ~~I. H. If accidental or ordinary disability ceases before a retired~~
26 ~~member attains the member's normal retirement date and the member is~~
27 ~~reemployed by an employer, the pension payable on the member's subsequent~~
28 ~~retirement shall be determined as provided in section 38-849, subsection D.~~

29 ~~J. I. A member shall be eligible for a temporary disability pension~~
30 ~~if the member's employment is terminated before the member's normal~~
31 ~~retirement date by reason of temporary disability. Payment of a temporary~~
32 ~~disability pension shall commence as of the first day of the month following~~
33 ~~the date of disability or the expiration of a period during which the member~~
34 ~~is receiving compensation and sick leave payments, whichever is later. The~~
35 ~~last payment shall be made as of the first day of the month in which either~~
36 ~~the death of the member occurs or the local board deems the member is no~~
37 ~~longer under temporary disability, whichever first occurs, provided that no~~
38 ~~more than twelve monthly temporary disability payments shall be made in total~~
39 ~~to the member.~~

40 ~~K. J. If on the expiration of a temporary disability pension the~~
41 ~~local board finds on application that the member has an accidental or~~
42 ~~ordinary disability, the member shall be eligible for an accidental or~~
43 ~~ordinary disability pension, as provided in this section.~~

44 ~~L. K. The system shall make payments pursuant to section 401(a)(9) of~~
45 ~~the internal revenue code and the regulations that are issued under that~~

1 section. Notwithstanding any other provision of the system, beginning
2 January 1, 1987 payment of benefits to a member shall commence no later than
3 April 1 of the calendar year following the later of:

4 1. The calendar year in which the member attains seventy and one-half
5 years of age.

6 2. The date the member terminates employment.

7 Sec. 6. Section 38-846, Arizona Revised Statutes, is amended to read:

8 38-846. Death benefits

9 A. ~~If the spouse of a member or retired member is surviving at such~~
10 ~~member's death, the spouse shall be eligible for a surviving spouse's~~
11 ~~pension, provided that such spouse had been married to the decedent either~~
12 ~~for a period of at least two years prior to such member's date of death or~~
13 ~~during such member's service.~~ THE SURVIVING SPOUSE OF A DECEASED RETIRED
14 MEMBER SHALL BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED
15 TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE TIME OF
16 THE MEMBER'S DEATH. Payment of a surviving spouse's pension shall commence
17 as of the last day of the month following the ~~member's or retired member's~~
18 date of death. The last payment shall be made as of the last day of the
19 month in which the surviving spouse's death occurs.

20 B. THE SURVIVING SPOUSE OF A DECEASED MEMBER SHALL BE PAID A SURVIVING
21 SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER ON THE DATE OF THE
22 MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE
23 LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF DEATH. THE LAST PAYMENT
24 SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S
25 DEATH OCCURS.

26 ~~B. C. The surviving spouse of a deceased retired member shall IS~~
27 ~~ENTITLED TO receive a monthly amount equal to four-fifths of the monthly~~
28 ~~amount of pension which THAT the decedent would have received immediately~~
29 ~~before death. The surviving spouse of a deceased member who was not killed~~
30 ~~in the line of duty or did not die from injuries suffered in the line of duty~~
31 ~~shall receive a monthly amount computed as for the surviving spouse of a~~
32 ~~deceased retired member, under the assumption that the member had retired for~~
33 ~~reason of accidental disability immediately before death. The surviving~~
34 ~~spouse of a deceased member who is killed in the line of duty or dies from~~
35 ~~injuries suffered in the line of duty is entitled to receive a monthly amount~~
36 ~~equal to the deceased member's average monthly benefit compensation less any~~
37 ~~amount payable for an eligible child under this section. A member who was~~
38 ~~eligible for or receiving a temporary disability pension at the time of the~~
39 ~~member's death is not deemed to be retired for the purposes of this~~
40 ~~subsection. For the purposes of this subsection, "killed in the line of~~
41 ~~duty" means the decedent's death was the direct and proximate result of the~~
42 ~~performance of the decedent's public safety duties and does not include~~
43 ~~suicide.~~

44 D. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO WAS NOT KILLED IN THE
45 LINE OF DUTY OR DID NOT DIE FROM INJURIES SUFFERED IN THE LINE OF DUTY IS

1 ENTITLED TO RECEIVE A MONTHLY AMOUNT CALCULATED IN THE SAME MANNER AS AN
2 ACCIDENTAL DISABILITY PENSION IS CALCULATED PURSUANT TO SECTION 38-845,
3 SUBSECTION B. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO IS KILLED IN THE
4 LINE OF DUTY OR DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY IS ENTITLED
5 TO RECEIVE A MONTHLY AMOUNT EQUAL TO THE DECEASED MEMBER'S AVERAGE MONTHLY
6 BENEFIT COMPENSATION LESS ANY AMOUNT PAYABLE FOR AN ELIGIBLE CHILD UNDER THIS
7 SECTION. A MEMBER WHO WAS ELIGIBLE FOR OR RECEIVING A TEMPORARY DISABILITY
8 PENSION AT THE TIME OF THE MEMBER'S DEATH IS NOT DEEMED TO BE RETIRED FOR THE
9 PURPOSES OF THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "KILLED IN
10 THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE DIRECT AND PROXIMATE
11 RESULT OF THE PERFORMANCE OF THE DECEDENT'S PUBLIC SAFETY DUTIES AND DOES NOT
12 INCLUDE SUICIDE.

13 E. A SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE SYSTEM
14 IN ORDER TO RECEIVE A SURVIVOR BENEFIT.

15 ~~E.~~ F. If at least one eligible child is surviving at the death of a
16 member or retired member, but no surviving spouse's pension then becomes
17 payable, a guardian's or conservator's pension shall be payable to the person
18 who is serving, or who is deemed by the local board to be serving, as the
19 legally appointed guardian or custodian of the eligible child. If an
20 eligible child of a member or retired member is surviving at the member's or
21 retired member's death, the eligible child is entitled to receive a child's
22 pension payable to the person who is serving or who is deemed by the local
23 board to be serving as the legally appointed guardian or custodian of the
24 eligible child. A CHILD'S PENSION OR A GUARDIAN'S OR CONSERVATOR'S PENSION
25 TERMINATES IF THE CHILD IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE
26 CHILD'S PENSION OR THE GUARDIAN'S OR CONSERVATOR'S PENSION TERMINATES IF THE
27 CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF THE
28 SURVIVING SPOUSE OR GUARDIAN. The member may also direct by designation to
29 the local board that the guardian or conservator pension or child's pension
30 be paid to the trustee of a trust created for the benefit of the eligible
31 child. A guardian's or conservator's pension shall also become payable if at
32 least one eligible child is surviving when a surviving spouse's pension
33 terminates. THE GUARDIAN OR CONSERVATOR SHALL FILE A WRITTEN APPLICATION
34 WITH THE SYSTEM IN ORDER TO RECEIVE THE GUARDIAN'S OR CONSERVATOR'S PENSION
35 AND CHILD'S PENSION.

36 ~~D.~~ G. The fund manager shall pay a guardian's or conservator's
37 pension during the same period in which a pension is payable to at least one
38 eligible child. The guardian, conservator or designated trustee is entitled
39 to receive the same monthly amount as would have been payable to the
40 decedent's surviving spouse had a surviving spouse's pension become payable
41 ~~upon~~ ON the decedent's death.

42 ~~E.~~ H. Each eligible child is entitled to a monthly amount equal to
43 one-tenth of the monthly amount of pension ~~which~~ THAT the deceased member or
44 retired member would have received immediately ~~prior to~~ BEFORE death. THE
45 PENSION FOR A CHILD OF A DECEASED MEMBER SHALL BE CALCULATED IN THE SAME

1 MANNER AS AN ACCIDENTAL DISABILITY IS CALCULATED PURSUANT TO SECTION 38-845,
2 SUBSECTION B. A deceased member shall be assumed to be retired for reasons
3 of accidental disability immediately before the member's death. If there are
4 three or more children eligible for a child's pension, a maximum of two
5 shares of the child's pension shall be payable, the aggregate of such shares
6 to be apportioned in equal measure to each eligible child.

7 ~~F.~~ I. If a member has accumulated contributions remaining in the
8 system at the date of death of the last beneficiary, a lump sum refund of
9 such accumulated contributions shall be payable to the person whom the member
10 has designated as the member's refund beneficiary, or if the member's refund
11 beneficiary is not then surviving, to the designated contingent refund
12 beneficiary, or if the designated contingent refund beneficiary is not then
13 surviving, to such person nearest of kin as selected by the local board. The
14 amount of the lump sum refund shall be the remaining accumulated
15 contributions. THE BENEFICIARY OR PERSON WHO IS SELECTED AS NEAREST OF KIN
16 SHALL FILE A WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND.

17 ~~G.~~ J. In calculating the right to and the amount of the surviving
18 spouse's pension, the law in effect on the date of the death of the member or
19 retired member controls, unless the law under which the member retired
20 provides for a greater benefit amount for a surviving spouse.

21 Sec. 7. Section 38-847, Arizona Revised Statutes, is amended to read:
22 38-847. Local boards

23 A. The administration of the system and responsibility for making the
24 provisions of the system effective for each employer are vested in a local
25 board. The department of public safety, the Arizona game and fish
26 department, the department of emergency and military affairs, the university
27 of Arizona, Arizona state university, northern Arizona university, each
28 county sheriff's office, each county attorney's office, each county parks
29 department, each municipal fire department, each eligible fire district, each
30 community college district, each municipal police department, the department
31 of law, the department of administration, the department of liquor licenses
32 and control, the Arizona department of agriculture, the Arizona state parks
33 board, each Indian reservation police agency and each Indian reservation fire
34 fighting agency shall have a local board. A nonprofit corporation operating
35 pursuant to sections 28-8423 and 28-8424 shall have one board for all of its
36 members. Each local board shall be constituted as follows:

37 1. For political subdivisions or Indian tribes, the mayor or chief
38 elected official or a designee of the mayor or chief elected official
39 approved by the respective governing body as chairman, two members elected by
40 secret ballot by members employed by the appropriate employer and two
41 citizens, one of whom shall be the head of the merit system, OR THE HEAD'S
42 DESIGNEE FROM AMONG THE OTHER MEMBERS OF THE MERIT SYSTEM, if it exists for
43 the group of members, appointed by the mayor or chief elected official and
44 with the approval of the governing body of the city or the governing body of
45 the employer. The appointed two citizens shall serve on both local boards in

1 a city or Indian tribes where both fire and police department employees are
2 members.

3 2. For state agencies and nonprofit corporations operating pursuant to
4 sections 28-8423 and 28-8424, two members elected by secret ballot by members
5 employed by the appropriate employer and three citizens appointed by the
6 governor. Each state agency local board shall elect a chairman.

7 3. For fire districts organized pursuant to section 48-804, the
8 secretary-treasurer as chairman, two members elected by secret ballot by
9 members employed by the fire district and two citizens appointed by the
10 secretary-treasurer, one of whom is a resident of the fire district and one
11 of whom has experience in personnel administration but who is not required to
12 be a resident of the fire district.

13 B. ~~Upon~~ ON the taking effect of this system for an employer, the
14 appointments and elections of board members shall take place with one
15 elective and appointive board member serving a term ending two years after
16 the effective date of participation for the employer and other local board
17 members serving a term ending four years after the effective date.
18 Thereafter, every second year, and as a vacancy occurs, an office shall be
19 filled for a term of four years in the same manner as previously provided.

20 C. EACH LOCAL BOARD SHALL BE FULLY CONSTITUTED PURSUANT TO SUBSECTION
21 A OF THIS SECTION WITHIN SIXTY DAYS AFTER THE EMPLOYER'S EFFECTIVE DATE OF
22 PARTICIPATION IN THE SYSTEM. IF THE DEADLINE IS NOT MET, ON THE WRITTEN
23 REQUEST OF ANY MEMBER WHO IS COVERED BY THE LOCAL BOARD OR THE EMPLOYER TO
24 THE FUND MANAGER, THE FUND MANAGER MAY APPOINT ALL VACANCIES OF THE LOCAL
25 BOARD PURSUANT TO SUBSECTION A OF THIS SECTION AND DESIGNATE WHETHER EACH
26 APPOINTIVE POSITION IS FOR A TWO YEAR OR FOUR YEAR TERM. IF THE FUND MANAGER
27 CANNOT FIND INDIVIDUALS TO SERVE ON THE LOCAL BOARD WHO MEET THE REQUIREMENTS
28 OF SUBSECTION A OF THIS SECTION, THE FUND MANAGER MAY APPOINT INDIVIDUALS TO
29 SERVE AS INTERIM LOCAL BOARD MEMBERS UNTIL QUALIFIED INDIVIDUALS ARE
30 APPOINTED OR ELECTED. EACH LOCAL BOARD SHALL MEET AT LEAST TWICE A YEAR.
31 Each member of a local board, within ten days after the member's appointment
32 or election, shall take an oath of office that, so far as it devolves ~~upon~~ ON
33 the member, the member shall diligently and honestly administer the affairs
34 of the local board and that the member shall not knowingly violate or
35 willingly permit to be violated any of the provisions of law applicable to
36 the system.

37 D. Except as limited by subsection E of this section, a local board
38 shall have such powers as may be necessary to discharge the following duties:

39 1. To decide all questions of eligibility and service credits, and
40 determine the amount, manner and time of payment of any benefits under the
41 system.

42 2. To prescribe procedures to be followed by claimants in filing
43 applications for benefits.

44 3. To make a determination as to the right of any claimant to a
45 benefit and to afford any claimant or the fund manager, or both, a right to a

1 rehearing on the original determination. Unless all parties involved in a
2 matter presented to the local board for determination otherwise agree, the
3 local board shall commence a hearing on the matter within ninety days after
4 the date the matter is presented to the local board for determination. If a
5 local board fails to commence a hearing as provided in this paragraph, on a
6 matter presented to the board for determination, the relief demanded by the
7 party petitioning the board is deemed granted and approved by the board. The
8 granting and approval of this relief is considered final and binding unless a
9 timely request for rehearing or appeal is made as provided in this article,
10 UNLESS THE FUND MANAGER DETERMINES THAT GRANTING THE RELIEF REQUESTED WOULD
11 VIOLATE THE INTERNAL REVENUE CODE OR THREATEN TO IMPAIR THE SYSTEM'S STATUS
12 AS A QUALIFIED PLAN UNDER THE INTERNAL REVENUE CODE. IF THE FUND MANAGER
13 DETERMINES THAT GRANTING THE REQUESTED RELIEF WOULD VIOLATE THE INTERNAL
14 REVENUE CODE OR THREATEN TO IMPAIR THE SYSTEM'S STATUS AS A QUALIFIED PLAN,
15 THE FUND MANAGER MAY REFUSE TO GRANT THE RELIEF BY ISSUING A WRITTEN
16 DETERMINATION TO THE LOCAL BOARD AND THE PARTY PETITIONING THE LOCAL BOARD
17 FOR RELIEF. THE DECISION BY THE FUND MANAGER IS SUBJECT TO JUDICIAL REVIEW
18 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

19 4. To request and receive from the employers and from members such
20 information as is necessary for the proper administration of the system and
21 action on claims for benefits and to forward such information to the fund
22 manager.

23 5. To distribute, in such manner as the local board determines to be
24 appropriate, information explaining the system received from the fund
25 manager.

26 6. To furnish the employer, the fund manager, and the legislature,
27 upon ON request, with such annual reports with respect to the administration
28 of the system as are reasonable and appropriate.

29 7. To receive and review the actuarial valuation of the system for its
30 group of members.

31 8. To receive and review reports of the financial condition and of the
32 receipts and disbursements of the fund from the fund manager.

33 9. To appoint medical boards as provided in section 38-859.

34 10. To sue and be sued to effectuate the duties and responsibilities
35 set forth in this article.

36 E. A local board shall have no power to add to, subtract from, modify
37 or waive any of the terms of the system, change or add to any benefits
38 provided by the system or waive or fail to apply any requirement of
39 eligibility for membership or benefits under the system. NOTWITHSTANDING ANY
40 LIMITATIONS PERIODS IMPOSED IN THIS ARTICLE, INCLUDING SUBSECTION D,
41 PARAGRAPH 3 AND SUBSECTIONS G AND H OF THIS SECTION, IF THE FUND MANAGER
42 DETERMINES A LOCAL BOARD DECISION VIOLATES THE INTERNAL REVENUE CODE OR
43 THREATENS TO IMPAIR THE SYSTEM'S STATUS AS A QUALIFIED PLAN UNDER THE
44 INTERNAL REVENUE CODE, THE LOCAL BOARD'S DECISION IS NOT FINAL AND BINDING

1 AND THE FUND MANAGER MAY REFRAIN FROM IMPLEMENTING OR COMPLYING WITH THE
2 LOCAL BOARD DECISION.

3 F. A local board, from time to time, shall establish and adopt such
4 rules as it deems necessary or desirable for its administration. All rules
5 and decisions of a board shall be uniformly and consistently applied to all
6 members in similar circumstances. If a claim or dispute is presented to a
7 local board for determination but the local board has not yet adopted uniform
8 rules of procedure for adjudication of the claim or dispute, the local board
9 shall adopt and use the model uniform rules of local board procedure that are
10 issued by the fund manager's fiduciary counsel to adjudicate the claim or
11 dispute.

12 G. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, any action by a
13 majority vote of the members of a local board ~~which~~ THAT is not inconsistent
14 with the provisions of the system AND THE INTERNAL REVENUE CODE shall be
15 final, conclusive and binding ~~upon~~ ON all persons affected by it unless a
16 timely application for a rehearing or appeal is filed as provided in this
17 article. NO LATER THAN TWENTY BUSINESS DAYS AFTER TAKING ACTION, THE LOCAL
18 BOARD SHALL SUBMIT TO THE FUND MANAGER THE NAME OF THE MEMBER AFFECTED BY ITS
19 DECISION, A DESCRIPTION OF THE ACTION TAKEN AND AN EXPLANATION OF THE REASONS
20 SUPPORTING THE LOCAL BOARD'S ACTION. THE FUND MANAGER MAY NOT IMPLEMENT AND
21 COMPLY WITH ANY LOCAL BOARD ACTION THAT DOES NOT COMPLY WITH THE INTERNAL
22 REVENUE CODE OR THAT THREATENS TO JEOPARDIZE THE SYSTEM'S STATUS AS A
23 QUALIFIED PLAN UNDER THE INTERNAL REVENUE CODE.

24 H. A claimant or the fund manager may apply for a rehearing before the
25 local board within the time period PERIODS prescribed in this subsection,
26 EXCEPT THAT IF A DECISION OF A LOCAL BOARD VIOLATES THE INTERNAL REVENUE CODE
27 OR THREATENS TO JEOPARDIZE THE SYSTEM'S STATUS AS A QUALIFIED PLAN UNDER THE
28 INTERNAL REVENUE CODE, NO LIMITATION PERIOD FOR THE FUND MANAGER TO SEEK A
29 REHEARING OF A LOCAL BOARD DECISION APPLIES. An application for a rehearing
30 shall be filed in writing with a member of the local board or its secretary
31 within sixty days after:

32 1. The applicant-claimant receives notification of the local board's
33 original action by certified mail, by attending the meeting at which the
34 action is taken or by receiving benefits from the system pursuant to the
35 local board's original action, whichever occurs first.

36 2. The applicant-fund manager receives notification of the local
37 board's original action AS PRESCRIBED BY SUBSECTION G OF THIS SECTION by
38 certified mail ~~or by receipt of written directions from the local board~~
39 ~~pursuant to its original action, whichever occurs first.~~

40 I. A hearing before a local board on a matter remanded from the
41 superior court is not subject to a rehearing before the local board.

42 J. Decisions of local boards are subject to judicial review pursuant
43 to title 12, chapter 7, article 6.

1 K. When making a ruling, determination or calculation, the local board
2 shall be entitled to rely ~~upon~~ ON information furnished by the employer, the
3 fund manager, independent legal counsel or the actuary for the system.

4 L. Each member of a local board is entitled to one vote. A majority
5 ~~of the appointed and elected members~~ is necessary for a decision by the
6 members of a local board at any meeting of the local board.

7 M. The local board shall adopt such bylaws as it deems desirable. The
8 local board shall elect a secretary who may, but need not, be a member of the
9 local board. The secretary of the local board shall keep a record and
10 prepare minutes of all meetings, forward the minutes to the fund manager
11 within forty-five days after each meeting and forward all necessary
12 communications to the fund manager.

13 N. The fees of the medical board and of the local board's independent
14 legal counsel and all other expenses of the local board necessary for the
15 administration of the system shall be paid by the employer AND NOT THE FUND
16 MANAGER OR SYSTEM at such rates and in such amounts as the local board shall
17 approve. Legal counsel that is employed by the local board is independent of
18 the employer and any employee organization or member and owes its duty of
19 loyalty only to the local board in connection with its representation of the
20 local board.

21 O. The local board shall issue directions to the fund manager
22 concerning all benefits ~~which~~ THAT are to be paid from the employer's account
23 pursuant to the provisions of the fund. The local board shall keep on file,
24 in such manner as it may deem convenient or proper, all reports from the fund
25 manager and the actuary.

26 P. The local board and the individual members of the local board shall
27 be indemnified from the assets of the ~~employer's account in the fund against~~
28 ~~any and all liabilities arising by reason of~~ EMPLOYER FOR ANY JUDGMENT
29 AGAINST THE LOCAL BOARD OR ITS MEMBERS, INCLUDING ATTORNEY FEES AND COSTS,
30 ARISING FROM any act, or failure to act, made in good faith pursuant to the
31 provisions of the system, including expenses reasonably incurred in the
32 defense of any claim relating to the act or failure to act.

33 Sec. 8. Section 38-848, Arizona Revised Statutes, is amended to read:

34 38-848. Fund manager

35 A. The fund manager shall consist of five members and shall have the
36 rights, powers and duties that are set forth in this section. The term of
37 office of members shall be three years to expire on the third Monday in
38 January of the appropriate year. Members are eligible to receive
39 compensation in an amount of fifty dollars a day, but not to exceed one
40 thousand dollars in any one fiscal year, and are eligible for reimbursement
41 of expenses pursuant to chapter 4, article 2 of this title. The fund manager
42 consists of the following members appointed by the governor pursuant to
43 section 38-211:

1 1. One elected member from a local board to represent the employees.

2 2. One member to represent this state as an employer of public safety
3 personnel. This member shall have the qualifications prescribed in
4 subsection R of this section.

5 3. One member to represent the cities as employers of public safety
6 personnel.

7 4. An elected county or state official or a judge of the superior
8 court, court of appeals or supreme court.

9 5. One public member. This member shall have the qualifications
10 prescribed in subsection R of this section.

11 B. All monies in the fund shall be deposited and held in a public
12 safety personnel retirement system depository. Monies in the fund shall be
13 disbursed from the depository separate and apart from all monies or funds of
14 this state and the agencies, instrumentalities and subdivisions of this
15 state, except that the fund manager may commingle the assets of the fund and
16 the assets of all other plans entrusted to its management IN ONE OR MORE
17 GROUP TRUSTS, subject to the crediting of receipts and earnings and charging
18 of payments to the appropriate employer, system or plan. The monies shall be
19 secured by the depository in which they are deposited and held to the same
20 extent and in the same manner as required by the general depository law of
21 this state. For purposes of making the decision to invest in securities
22 owned by the fund or any plan administered by the fund manager, the fund and
23 assets of the plans are subject to the sole management of the fund manager
24 for the purpose of this article except that, on the fund manager's election
25 to invest in a particular security or make a particular investment, the
26 assets comprising the security or investment may be chosen and managed by
27 third parties approved by the fund manager. The fund manager may invest in
28 portfolios of securities chosen and managed by a third party. The fund
29 manager's decision to invest in securities such as mutual funds, commingled
30 investment funds, exchange traded funds, private equity or venture capital
31 limited partnerships, real estate limited partnerships or limited liability
32 companies and real estate investment trusts whose assets are chosen and
33 managed by third parties does not constitute an improper delegation of the
34 fund manager's investment authority.

35 C. All contributions under this system and other retirement plans that
36 the fund manager administers shall be forwarded to the fund manager and shall
37 be held, invested and reinvested by the fund manager as provided in this
38 article. All property and monies of the fund and other retirement plans that
39 the fund manager administers, including income from investments and from all
40 other sources, shall be retained for the exclusive benefit of members, as
41 provided in the system and other retirement plans that the fund manager
42 administers, and shall be used to pay benefits to members or their
43 beneficiaries or to pay expenses of operation and administration of the
44 system and fund and other retirement plans that the fund manager administers.

1 D. The fund manager shall have the full power in its sole discretion
2 to invest and reinvest, alter and change the monies accumulated under the
3 system and other retirement plans that the fund manager administers as
4 provided in this article. In addition to its power to make investments
5 managed by others, the fund manager may delegate the authority the fund
6 manager deems necessary and prudent to investment management pursuant to
7 section 38-848.03, as well as to the administrator, employed by the fund
8 manager pursuant to subsection K, paragraph 6 of this section, and any
9 assistant administrators to invest the monies of the system and other
10 retirement plans that the fund manager administers if the administrator,
11 investment management and any assistant administrators follow the investment
12 policies that are promulgated by the fund manager. The fund manager may
13 commingle securities and monies of the fund, the elected officials'
14 retirement plan, the corrections officer retirement plan and other plans or
15 monies entrusted to its care, subject to the crediting of receipts and
16 earnings and charging of payments to the account of the appropriate employer,
17 system or plan. In making every investment, the fund manager shall exercise
18 the judgment and care under the circumstances then prevailing which persons
19 of ordinary prudence, discretion and intelligence exercise in the management
20 of their own affairs, not in regard to speculation but in regard to the
21 permanent disposition of their funds, considering the probable income from
22 their funds as well as the probable safety of their capital, provided:

23 1. That not more than eighty per cent of the combined assets of the
24 system or other plans that the fund manager manages shall be invested at any
25 given time in corporate stocks, based on cost value of such stocks
26 irrespective of capital appreciation.

27 2. That no more than five per cent of the combined assets of the
28 system or other plans that the fund manager manages shall be invested in
29 corporate stock issued by any one corporation, other than corporate stock
30 issued by corporations chartered by the United States government or corporate
31 stock issued by a bank or insurance company.

32 3. That not more than five per cent of the voting stock of any one
33 corporation shall be owned by the system and other plans that the fund
34 manager administers, except that this limitation does not apply to membership
35 interests in limited liability companies.

36 4. That corporate stocks and exchange traded funds eligible for
37 purchase shall be restricted to stocks and exchange traded funds that, except
38 for bank stocks, insurance stocks and membership interests in limited
39 liability companies, are either:

40 (a) Listed or approved on issuance for listing on an exchange
41 registered under the securities exchange act of 1934, as amended (15 United
42 States Code sections 78a through 7811).

43 (b) Designated or approved on notice of issuance for designation on
44 the national market system of a national securities association registered

1 under the securities exchange act of 1934, as amended (15 United States Code
2 sections 78a through 7811).

3 (c) Listed or approved on issuance for listing on an exchange
4 registered under the laws of this state or any other state.

5 (d) Listed or approved on issuance for listing on an exchange of a
6 foreign country with which the United States is maintaining diplomatic
7 relations at the time of purchase, except that no more than twenty per cent
8 of the combined assets of the system and other plans that the fund manager
9 manages shall be invested in foreign securities, based on the cost value of
10 the stocks irrespective of capital appreciation.

11 (e) An exchange traded fund that is recommended by the chief
12 investment officer of the system, that is registered under the investment
13 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
14 that is both traded on a public exchange and based on a publicly recognized
15 index.

16 E. Notwithstanding any other law, the fund manager shall not be
17 required to invest in any type of investment that is dictated or required by
18 any entity of the federal government and that is intended to fund economic
19 development projects, public works or social programs, but may consider such
20 economically targeted investments pursuant to its fiduciary responsibility.
21 The fund manager, on behalf of the system AND ALL OTHER PLANS OR TRUSTS THE
22 FUND MANAGER ADMINISTERS, may invest in, lend monies to or guarantee the
23 repayment of monies by a limited liability company, limited partnership,
24 joint venture, partnership, limited liability partnership or trust in which
25 the system ~~has~~ AND PLANS OR TRUSTS HAVE a financial interest, whether the
26 entity is closely held or publicly traded and that, in turn, may be engaged
27 in any lawful activity, including venture capital, private equity, the
28 ownership, development, management, improvement or operation of real property
29 and any improvements or businesses on real property or the lending of monies.

30 F. Conference call meetings of the fund manager of the public safety
31 personnel retirement system that are held for investment purposes only are
32 not subject to chapter 3, article 3.1 of this title, except that the fund
33 manager shall maintain minutes of these conference call meetings and make
34 them available for public inspection within twenty-four hours after the
35 meeting. The fund manager shall review the minutes of each conference call
36 meeting and shall ratify all legal actions taken during each conference call
37 meeting at the next scheduled meeting of the fund manager.

38 G. The fund manager shall not be held liable for the exercise of more
39 than ordinary care and prudence in the selection of investments and
40 performance of its duties under the system and shall not be limited to
41 so-called "legal investments for trustees", but all monies of the system and
42 other plans that the fund manager administers shall be invested subject to
43 all of the conditions, limitations and restrictions imposed by law.

1 H. Except as provided in subsection D of this section, the fund
2 manager may:

3 1. Invest and reinvest the principal and income of all assets that the
4 fund manager manages without distinction between principal and income.

5 2. Sell, exchange, convey, transfer or otherwise dispose of any
6 investments made on behalf of the system or other plans the fund manager
7 administers in the name of the system or plans by private contract or at
8 public auction.

9 3. Also:

10 (a) Vote on any stocks, bonds or other securities.

11 (b) Give general or special proxies or powers of attorney with or
12 without power of substitution.

13 (c) Exercise any conversion privileges, subscription rights or other
14 options and make any payments incidental to the exercise of the conversion
15 privileges, subscription rights or other options.

16 (d) Consent to or otherwise participate in corporate reorganizations
17 or other changes affecting corporate securities, delegate discretionary
18 powers and pay any assessments or charges in connection therewith.

19 (e) Generally exercise any of the powers of an owner with respect to
20 stocks, bonds, securities or other investments held in or owned by the system
21 or other plans whose assets the fund manager administers.

22 4. Make, execute, acknowledge and deliver any other instruments that
23 may be necessary or appropriate to carry out the powers granted in this
24 section.

25 5. Register any investment held by the system or other plans whose
26 assets the fund manager administers in the name of the system or plan or in
27 the name of a nominee OR TRUST.

28 6. At the expense of the system or other plans that the fund manager
29 administers, enter into an agreement with any bank or banks for the
30 safekeeping and handling of securities and other investments coming into the
31 possession of the fund manager. The agreement shall be entered into under
32 terms and conditions that secure the proper safeguarding, inventory,
33 withdrawal and handling of the securities and other investments. No access
34 to and no deposit or withdrawal of the securities from any place of deposit
35 selected by the fund manager shall be permitted or made except as the terms
36 of the agreement may provide.

37 7. Appear before local boards and the courts of this state and
38 political subdivisions of this state through counsel or appointed
39 representative to protect the fund or the assets of other plans that the fund
40 manager administers. The fund manager is not responsible for the actions or
41 omissions of the local boards under this system but may seek review or
42 rehearing of actions or omissions of local boards. The fund manager does not
43 have a duty to review actions of the local boards but may do so in its
44 discretion in order to protect the fund. NO LIMITATIONS PERIOD PRECLUDES THE
45 FUND MANAGER OR ADMINISTRATOR FROM CONTESTING, OR REQUIRES THE FUND MANAGER

1 OR ADMINISTRATOR TO IMPLEMENT OR COMPLY WITH, A LOCAL BOARD DECISION THAT
2 VIOLATES THE INTERNAL REVENUE CODE OR THAT THREATENS TO IMPAIR THE TAX
3 QUALIFIED STATUS OF THE SYSTEM OR ANY PLAN ADMINISTERED BY THE FUND MANAGER
4 OR ADMINISTRATOR.

5 8. Empower the fund administrator to take actions on behalf of the
6 fund manager that are necessary for the protection and administration of the
7 fund or the assets of other plans that the fund manager administers pursuant
8 to the guidelines of the fund manager.

9 9. Do all acts, whether or not expressly authorized, that may be
10 deemed necessary or proper for the protection of the investments held in the
11 fund or owned by other plans OR TRUSTS that the fund manager administers.

12 10. SETTLE THREATENED OR ACTUAL LITIGATION AGAINST ANY SYSTEM OR PLAN
13 THAT THE FUND MANAGER ADMINISTERS.

14 I. Investment expenses and operation and administrative expenses of
15 the fund manager shall be accounted for separately and allocated against
16 investment income.

17 J. The fund manager, as soon as possible within a period of six months
18 following the close of any fiscal year, shall transmit to the governor and
19 the legislature a comprehensive annual financial report on the operation of
20 the system and other plans that the fund manager administers containing,
21 among other things:

22 1. A balance sheet.

23 2. A statement of income and expenditures for the year.

24 3. A report on an actuarial valuation of its assets and liabilities.

25 ~~4. A detailed statement of the investments acquired and disposed of~~
26 ~~during the year.~~

27 ~~5.~~ 4. A list of investments owned.

28 ~~6.~~ 5. The total rate of return, yield on cost, and per cent of cost
29 to market value of the fund and the assets of other plans that the fund
30 manager administers.

31 ~~7.~~ 6. Any other statistical and financial data that may be necessary
32 for the proper understanding of the financial condition of the system and
33 other plans that the fund manager administers and the results of their
34 operations. A synopsis of the annual report shall be published for the
35 information of members of the system, the elected officials' retirement plan
36 or the corrections officer retirement plan.

37 K. The fund manager shall:

38 1. Maintain the accounts of the system and other plans that the fund
39 manager administers and issue statements to each employer annually and to
40 each member who may request it.

41 2. Report the results of the actuarial valuations to the local boards
42 and employers.

43 3. Contract on a fee basis with an independent investment counsel to
44 advise the fund manager in the investment management of the fund and assets

1 of other plans that the fund manager administers and with an independent
2 auditing firm to audit the fund manager's accounting.

3 4. Permit the auditor general to make an annual audit and the results
4 shall be transmitted to the governor and the legislature.

5 5. Contract on a fee basis with an actuary who shall make actuarial
6 valuations of the system and other plans that the fund manager administers,
7 be the technical adviser of the fund manager on matters regarding the
8 operation of the funds created by the provisions of the system, the elected
9 officials' retirement plan, the corrections officer retirement plan and the
10 fire fighter and peace officer cancer insurance policy program and perform
11 other duties required in connection therewith. The actuary must be a member
12 of a nationally recognized association or society of actuaries.

13 6. Employ, as administrator, a person, state department or other body
14 to serve at the pleasure of the fund manager.

15 7. Establish procedures and guidelines for contracts with actuaries,
16 auditors, investment counsel and legal counsel and for safeguarding of
17 securities.

18 L. The administrator, under the direction of the fund manager, shall:
19 1. Administer this article.

20 2. Invest the funds of the system and other plans that the fund
21 manager administers as the fund manager deems necessary and prudent as
22 provided in subsections D and H of this section and subject to the investment
23 policies and fund objectives promulgated by the fund manager.

24 3. Establish and maintain an adequate system of accounts and records
25 for the system and other plans that the fund manager administers, which shall
26 be integrated with the accounts, records and procedures of the employers so
27 that the system and other plans that the fund manager administers operates
28 most effectively and at minimum expense and that duplication of records and
29 accounts is avoided.

30 4. In accordance with the fund manager's governance policy and
31 personnel rules and procedures and the budget adopted by the fund manager,
32 hire such employees and services the administrator deems necessary and
33 prescribe their duties, including the hiring of one or more assistant
34 administrators to manage the system's operations, investments and legal
35 affairs.

36 5. Be responsible for income, the collection of the income and the
37 accuracy of all expenditures.

38 6. Recommend to the fund manager annual contracts for the system's
39 actuary, auditor, investment counsel, legal counsel and safeguarding of
40 securities.

41 7. Perform additional duties and powers prescribed by the fund manager
42 and delegated to the administrator.

43 M. The system is an independent trust fund and the fund manager, the
44 administrator, the assistant administrators and all persons employed by them
45 are not under the jurisdiction of the department of administration or any

1 other agency, department or instrumentality of this state or subject to
2 section 38-611 or title 41, chapter 4 or 6. The salaries of the
3 administrator, assistant administrators and other employees of the fund
4 manager are the sole determination of the fund manager. Contracts for goods
5 and services approved by the fund manager are not subject to title 41,
6 chapter 23. As an independent trust fund whose assets are separate and apart
7 from all other funds of this state, the system and the fund manager are not
8 subject to the restrictions prescribed in section 35-154 or article IX,
9 sections 5 and 8, Constitution of Arizona.

10 N. The attorney general or an attorney approved by the attorney
11 general and paid by the fund shall be the attorney for the fund manager and
12 shall represent the fund manager in any legal proceeding or forum that the
13 fund manager deems appropriate. The fund manager, administrator, assistant
14 administrators and employees of the fund manager are not personally liable
15 for any acts done in their official capacity in good faith reliance on the
16 written opinions of the fund manager's attorney.

17 O. At least once in each five-year period after the effective date,
18 the actuary shall make an actuarial investigation into the mortality, service
19 and compensation experience of the members and beneficiaries of the system
20 and other plans that the fund manager administers and shall make a special
21 valuation of the assets and liabilities of the monies of the system and
22 plans. Taking into account the results of the investigation and special
23 valuation, the fund manager shall adopt for the system and other plans that
24 the fund manager administers those mortality, service and other tables deemed
25 necessary.

26 P. On the basis of the tables the fund manager adopts, the actuary
27 shall make a valuation of the assets and liabilities of the funds of the
28 system and other plans that the fund manager administers not less frequently
29 than every year. By November 1 of each year the fund manager shall provide a
30 preliminary report and by December 15 of each year provide a final report to
31 the governor, the speaker of the house of representatives and the president
32 of the senate on the contribution rate for the ensuing fiscal year.

33 Q. Neither the fund manager nor any member or employee of the fund
34 manager shall directly or indirectly, for himself or as an agent, in any
35 manner use the monies or deposits of the fund except to make current and
36 necessary payments, nor shall the fund manager or any member or employee
37 become an endorser or surety or in any manner an obligor for monies loaned by
38 or borrowed from the fund or the assets of any other plans that the fund
39 manager administers.

40 R. The members of the fund manager who are appointed pursuant to
41 subsection A, paragraphs 2 and 5 of this section shall have at least ten
42 years' substantial experience as any one or a combination of the following:

- 1 1. A portfolio manager acting in a fiduciary capacity.
- 2 2. A securities analyst.
- 3 3. An employee or principal of a trust institution, investment
- 4 organization or endowment fund acting either in a management or an investment
- 5 related capacity.
- 6 4. A chartered financial analyst in good standing as determined by the
- 7 association for investment management and research.
- 8 5. A professor at the university level teaching economics or
- 9 investment related subjects.
- 10 6. An economist.
- 11 7. Any other professional engaged in the field of public or private
- 12 finances.

13 S. Financial or commercial information that is provided to the fund
14 manager, employees of the fund manager and attorneys of the fund manager in
15 connection with investments in which the fund manager has invested or
16 investments the fund manager has considered for investment is confidential,
17 proprietary and not a public record if the information is information that
18 would customarily not be released to the public by the person or entity from
19 whom the information was obtained.

20 Sec. 9. Section 38-848.03, Arizona Revised Statutes, is amended to
21 read:

22 38-848.03. Appointed investment management

23 A. The fund manager may appoint investment management. Investment
24 management shall have:

- 25 1. The highest professional and fiduciary recommendations.
- 26 2. Not less than three years' experience at handling institutional
- 27 investments of at least two hundred fifty million dollars. This paragraph is
- 28 satisfied if investment management, the individual retained by investment
- 29 management or individual employees in a firm of investment managers meet this
- 30 requirement.
- 31 3. Had responsibility for investment decision making as an insurance
- 32 company investment fund, an investment division of a bank, a mutual fund, an
- 33 investment organization or institution, a pension fund or an investment
- 34 adviser who is designated as a chartered financial analyst by the chartered
- 35 financial analyst institute.

36 B. A bank serving as investment management does not have a conflict of
37 interest because it is also a depository in which any monies administered by
38 the fund manager are deposited.

39 C. The fund manager shall appoint investment management for a term of
40 one year and may appoint the investment management to succeeding terms. The
41 fund manager may remove investment management for not complying with this
42 article or for failure to comply with or adhere to the fund manager's
43 investment goals, objectives or policies.

1 D. Investment management appointed by the fund manager:
2 1. May purchase and sell in the name of the system and other plans
3 that the fund manager administers any of the securities and investments held
4 by the system or plans.
5 2. Subject to any restrictions imposed by the fund manager, ~~are~~ IS
6 responsible for making all investment decisions relating to the investments
7 the fund manager has assigned investment management to manage.
8 E. Investment management shall not directly or indirectly:
9 1. Except for the fees agreed to be paid by the fund manager to
10 investment management or as otherwise agreed by the fund manager, have any
11 interest in the investments being managed by investment management for the
12 fund manager.
13 2. Borrow monies, funds or deposits of the system or other plans that
14 the fund manager administers or use these monies in any manner except as
15 directed under this article.
16 3. Be an endorser, surety or obligor on investments made under this
17 article.
18 F. Subject to the limitations in this article, the fund manager may
19 authorize the administrator, ~~any assistant administrators~~ CHIEF INVESTMENT
20 OFFICER and other in-house investment professionals employed by the fund
21 manager to make DISCRETIONARY investments for the system and other plans OR
22 TRUSTS that the fund manager administers that do not exceed fifty per cent of
23 the assets of the system and other plans OR TRUSTS measured at cost.
24 G. To exercise the responsibilities prescribed in this ~~section~~
25 ARTICLE, the fund manager may enter into contracts that may be interpreted
26 and enforced under the laws of a jurisdiction other than this state and that
27 are not subject to section 35-214 or 38-511 or title 41, chapter 23.
28 Sec. 10. Section 38-849, Arizona Revised Statutes, is amended to read:
29 38-849. Limitations on receiving pension; violation;
30 classification; reemployment after severance;
31 reinstatement of service credits; reemployment of
32 retired or disabled member
33 A. If a member is convicted of, or discharged because of, theft,
34 embezzlement, fraud or misappropriation of an employer's property or property
35 under the control of the employer, the member shall be subject to restitution
36 and fines imposed by a court of competent jurisdiction. The court may order
37 the restitution or fines to be paid from any payments otherwise payable to
38 the member from the retirement system.
39 B. A person who knowingly makes any false statement or who falsifies
40 or permits to be falsified any record of the system with an intent to defraud
41 the system is guilty of a class 6 felony. If any change or error in the
42 records results in any member or beneficiary receiving from the system more
43 or less than the member or beneficiary would have been entitled to receive
44 had the records been correct, the local board shall correct such error, and
45 as far as practicable shall adjust the payments in such manner that the

1 actuarial equivalent of the benefit to which such member or beneficiary was
2 correctly entitled shall be paid. If a member is convicted of a crime
3 specified in this subsection the member shall be entitled to receive a lump
4 sum payment of the member's accumulated contributions but forfeits any future
5 compensation and benefits that would otherwise accrue to the member or the
6 member's estate under this article.

7 C. If a member who received a severance refund on termination of
8 employment, as provided in section 38-846.02, is subsequently reemployed by
9 an employer, the member's prior service credits shall be cancelled and
10 service shall be credited only from the date the member's most recent
11 reemployment period commenced. However, if the former member's reemployment
12 with the same employer occurred within two years after the former member's
13 termination date, and, within ninety days after reemployment the former
14 member signs a written election consenting to reimburse the fund within one
15 year, the former member shall be required to redeposit the amount withdrawn
16 at the time of the former member's separation from service, with interest
17 thereon at the rate of nine per cent for each year compounded each year from
18 the date of withdrawal to the date of repayment. On satisfaction of this
19 obligation the member's prior service credits shall be reinstated.

20 D. If a retired member becomes employed in any capacity by the
21 employer from which the member retired before sixty consecutive days after
22 the member's date of retirement, the system shall not make pension payments
23 to the retired member during the period of reemployment. If a retired member
24 is reemployed by an employer, no contributions shall be made on the retired
25 member's account, nor any service credited, during the period of the
26 reemployment. ~~The fund manager shall review all reemployment determinations.~~
27 Notwithstanding this subsection, if a retired member subsequently becomes
28 employed in the same position by the employer from which the member retired,
29 the system shall not make pension payments to the retired member during the
30 period of reemployment. On subsequent termination of employment by the
31 retired member, the retired member is entitled to receive a pension based on
32 the member's service and compensation before the date of the member's
33 reemployment. If a member who retired under disability is reemployed by an
34 employer as an employee, that member shall be treated as if the member had
35 been on an uncompensated leave of absence during the period of the member's
36 disability retirement and shall be a contributing member of the system.
37 WITHIN TEN DAYS AFTER A RETIRED MEMBER IS REEMPLOYED BY THE EMPLOYER FROM
38 WHICH THE MEMBER RETIRED, THE EMPLOYER SHALL ADVISE THE FUND MANAGER IN
39 WRITING AS TO WHETHER THE RETIRED MEMBER HAS BEEN REEMPLOYED IN THE SAME
40 POSITION FROM WHICH THE MEMBER RETIRED. THE FUND MANAGER SHALL REVIEW ALL
41 REEMPLOYMENT DETERMINATIONS. IF THE FUND MANAGER IS NOT PROVIDED THE
42 NECESSARY INFORMATION TO MAKE A REEMPLOYMENT DETERMINATION, THE FUND MANAGER
43 SHALL SUSPEND PENSION PAYMENTS UNTIL INFORMATION IS RECEIVED AND A
44 DETERMINATION IS MADE THAT THE REEMPLOYMENT MEETS THE REQUIREMENTS OF THIS
45 SUBSECTION. For the purposes of this subsection, "same position" means the

1 member is in a position where the member performs substantially similar
2 duties that were performed and exercises substantially similar authority that
3 was exercised by the retired member before retirement.

4 E. A person who defrauds the system or who takes, converts, steals or
5 embezzles monies owned by or from the system and who fails or refuses to
6 return the monies to the system on the fund manager's written request is
7 subject to civil suit by the system in the superior court in Maricopa county.
8 On entry of an order finding the person has defrauded the system or taken,
9 converted, stolen or embezzled monies owned by or from the system, the court
10 shall enter an order against that person and for the system awarding the
11 system all of its costs and expenses of any kind, including attorney fees,
12 that were necessary to successfully prosecute the action. The court shall
13 also grant the system a judicial lien on all of the nonexempt property of the
14 person against whom judgment is entered pursuant to this subsection in an
15 amount equal to all amounts awarded to the system, plus interest at the rate
16 prescribed by section 44-1201, subsection A, until all amounts owed are paid
17 to the system.

18 F. Notwithstanding any other provision of this article, the fund
19 manager may offset against any benefits otherwise payable by the system to an
20 active or retired member or survivor any court ordered amounts awarded to the
21 fund manager and system and assessed against the member or survivor.

22 Sec. 11. Section 38-853.01, Arizona Revised Statutes, is amended to
23 read:

24 38-853.01. Redemption of prior service

25 A. Each present active member of the system may elect to redeem any
26 part of the following prior service or employment by paying into the system
27 any amounts required under subsection B if the prior service or employment is
28 not on account with any other retirement system:

29 1. Prior service in this state as an employee with an employer now
30 covered by the system or prior service with an agency of the United States
31 government, a state of the United States or a political subdivision OF THIS
32 STATE OR of a state of the United States as a full-time paid firefighter or
33 full-time paid certified peace officer.

34 2. Subject to any limitations prescribed by federal law, prior
35 employment as an employee with OF a corporation that contracted with an
36 employer now covered by the system to provide firefighting services on behalf
37 of that employer as a full-time paid firefighter OR THAT PROVIDED
38 FIREFIGHTING SERVICES FOR A POLITICAL SUBDIVISION OF THIS STATE.

39 B. Any present active member who elects to redeem any part of the
40 prior service or employment for which the employee is deemed eligible by the
41 fund manager under this section shall pay into the system the amounts
42 previously withdrawn by the member, if any, as a refund of the member's
43 accumulated contributions plus accumulated interest as determined by the fund
44 manager and the additional amount, if any, computed by the system's actuary
45 that is necessary to equal the increase in the actuarial present value of

1 projected benefits resulting from the redemption calculated using the
2 actuarial methods and assumptions prescribed by the system's actuary.

3 C. A member electing to redeem service pursuant to this section may
4 pay for service being redeemed in the form of a lump sum payment to the
5 system, a trustee-to-trustee transfer or a direct rollover of an eligible
6 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
7 (vi) of the internal revenue code or a rollover of an eligible distribution
8 from an individual retirement account or annuity described in section 408(a)
9 or (b) of the internal revenue code.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.

Passed the House February 16, 2010

Passed the Senate April 14, 2010

by the following vote: 57 Ayes,

by the following vote: 88 Ayes,

0 Nays, 2 Not Voting
1 vacancy

0 Nays, 2 Not Voting

Steve B. Horsley
Speaker of the House
Pro Tempore

Robert L. Quinn
President of the Senate

Cheryl Laube
Chief Clerk of the House

Charmaine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2067

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 19, 2010,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 2010

at 4:20 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 23rd day of

April, 2010,

at 5:17 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2067

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26th day of April, 2010,

at 12:30 o'clock P. M.

[Signature]
Secretary of State